

Exhibit C

All Pleadings

Filed
3/9/2018 6:39 PM
Anne Lorentzen
District Clerk
Nueces County, Texas

**IN THE COUNTY COURT AT LAW
COUNTY COURT NUMBER _____
NUECES COUNTY, TEXAS**

Theresa Hoelscher

VS.

ABIOMED

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§

CAUSE NO. 2018CCV-60482-1

PLAINTIFF'S ORIGINAL PETITION

Theresa Hoelscher ("Plaintiff") files this *Plaintiff's Original Petition*, complaining of **ABIOMED**, ("Defendant"), and in support, would show as follows :

I. DISCOVERY

1. Plaintiff requests a Level III Discovery Plan pursuant to the Texas Rules of Civil Procedure.

II. PARTIES

2. Plaintiff previously worked for Abiomed in Corpus Christi, Texas. The events and omissions which are the basis of this lawsuit occurred in Nueces County, Texas.

3. Defendant is an individual or business residing in or doing business as an entity in Corpus Christi, Nueces County, Texas, or operating as an entity doing business within this judicial district. Defendant, ABIOMED may be served with process at 222 Cherry Hill, Danvers MA 01923. The phone number for Abiomed is (978) 777-8411.

III. JURISDICTION AND VENUE

4. Plaintiff seeks damages in excess of the minimum jurisdictional limit of this Court.
5. Venue is proper in because all or a substantial part of the events or omissions giving rise to Plaintiffs' claims occurred in Nueces County, Texas. Alternatively, venue is proper in Nueces County because defendant conducts business and is operating in Nueces County.

IV. CONDITIONS PRECEDENT TO SUIT

6. Plaintiff has complied with all the prerequisites to an action under Title VII. All procedural requirements have been met and are fully set forth below.
7. Plaintiff timely filed a charge for the discrimination and retaliation alleged in this complaint with the Equal Employment Opportunity Commission.
8. Theresa Hoelscher was wrongfully terminated by Abiomed after having filed an EEOC complaint against Abiomed and after having reported unsafe product and unethical and illegal business practices by Abiomed.
9. Plaintiff filed this action within 90 days of the receipt of Notice of Right to Sue.
10. All conditions precedent to all other causes of action asserted by Plaintiff have been satisfied.

IV. FACTUAL BACKGROUND

1. On or about November 2016, and until her wrongful termination, Theresa Hoelscher began being discriminated for her age (over 40) and gender (Female) and subjected to unlawful retaliation and hostile work environment. After making a complaint to EEOC regarding unethical and illegal conduct by Abiomed Employees as well as safety problems and product defects which adversely affected patients who were using Abiomed products, Theresa Hoelscher was fired in retaliation for having reported the illegal conduct, unsafe product and product defects, and unethical illegal practices of soliciting business for Abiomed through inappropriate sexual and other illegal solicitations of physicians by other Abiomed employees. Importantly, the defective Abiomed products were reported by Theresa Hoelscher, and she was terminated within a close proximity of time to reporting the defective Abiomed products. After initiating her EEOC complaint process, she was terminated by Abiomed in violation of EEOC rules prohibiting retaliation, in violation of Title VII of the Civil Rights Act of 1964 for Gender and Age Discrimination, and in Retaliation for reporting the conduct and product defects of Abiomed described above. Theresa Hoelscher suffered economic loss and damages proximately caused by the malfeasance and misconduct of Abiomed. She now seeks full recourse under the law and reinstatement of her previously held position in addition to the maximum amount of economic damages allowable by law. Hoelscher seeks punitive damages to hold Abiomed responsible for its illegal and immoral conduct affecting patient safety.

V. CAUSES OF ACTION

A. Title VII employment discrimination based upon Retaliation

21. The conduct of Defendant constitutes a violation of the Equal Employment Opportunity Act's prohibitions of discrimination and for retaliation for engaging in a protected activity. 42 U.S.C. §2000e, et seq. Plaintiff alleges she is the subject of unlawful retaliation for reporting previous violations of law by Defendant and also for her Age and Gender. In retaliation of having reported her initial disabilities, gender discrimination under Title VII of the Civil Rights Act of 1964, violations of law by Abiomed and also for reporting violations of her privacy to AbiomedSA, Theresa Hoelscher was subjected to unlawful retaliation by her employer and its employees. This violation caused Plaintiff to suffer damages.

22. **EEOC Retaliation.** Theresa Hoelscher alleges she was also retaliated against for reporting discrimination and retaliation to EEOC. Hoelscher alleges retaliation for engaging the EEOC process, and seeks injunctive relief of reinstatement to her previous position, and damages for retaliation against her by filing EEOC charges against Abiomed. This retaliation after filing EEOC charges caused significant economic harm to Hoelscher.

B. Retaliation

23. Defendant, Abiomed, participated in retaliation to Plaintiff, causing her economic and other damages. Specifically, Plaintiff endured disparate treatment, as enumerated in the facts listed above, including but not limited to hostile treatment, false reports and improper termination. Defendant engaged in increasing negative recommendations and other adverse employment actions against her leading up to and including her termination.

All of these illegal acts occurred after plaintiff had filed requested protection for gender and age discrimination, and retaliation for having reported illegal and unethical business practices as well as dangerous product defects of Abiomed products affecting patient safety. Hoelscher, after having reported violations of law and after reporting EEOC discrimination and retaliation, was wrongfully terminated, causing economic damages. Theresa Hoelscher suffered significant damages as a result of the unlawful retaliation.

C. Hostile Work Environment

24. Plaintiff contends the Defendant violated Title VI of the Civil Rights Act of 1964 by discriminating against her due to her age, gender and in retaliation for the conduct described above. By their conduct described above, Defendant intentionally or recklessly, committed violations of Federal law constituting conduct that proximately caused Plaintiff significant economic damages and severe emotional distress, and thereby intentionally created a hostile work environment for which Defendant is liable for damages.

D. Title VII Gender Discrimination

Hoelscher alleges that Abiomed unlawfully discriminated against her on the basis of her Gender (female) in violation of Title VII of the Civil Rights Act of 1964. Hoelscher alleges that similarly situated males, including the Abiomed President and employees in her area, were given more favorable treatment and were not terminated by Defendant, thus

causing discrimination against her on the basis of her gender (female). The discrimination and termination caused Hoelscher damages.

F. AGE DISCRIMINATION IN VIOLATION OF THE ADEA

Hoelscher alleges she was discriminated on the basis of her age (over 40) in violation of the ADEA. She alleges that the Defendant terminated her in part, due to her age in violation of the ADEA. Hoelscher alleges Abiomed's conduct proximately caused additional damages.

VI. DAMAGES

26. Defendants' acts and omissions have caused Plaintiff to suffer damages including past and future lost earnings (including back pay and front pay), past and future injury to reputation, and past and future mental anguish, and economic damages. Plaintiff seeks punitive damages for willful, malicious violations of law by Abiomed, and her disparate treatment.

27. Plaintiff seeks recovery of these damages from Defendant.

VII. ATTORNEY FEES AND INJUNCTIVE RELIEF REQUEST

28. Defendant's acts and omissions have caused Plaintiff to incur attorney fees and court costs. Plaintiff seeks recovery from Defendant of all attorney fees and court costs through judgment in this court with additional contingent amounts in the event of post judgment and appellate proceedings. All conditions precedent to the recovery of attorney fees have been satisfied. Additionally, Theresa Hoelscher specifically pleads for injunctive relief to be reinstated to her previous position prior to the illegal termination in violation of her rights.

VIII. PRAYER FOR RELIEF

29. For the reasons stated above, Plaintiff asks that, upon final judgment, this Court order that Defendant pay to Plaintiff all damages identified above plus attorney fees, costs of court, and prejudgment and post judgment interest. Plaintiff also asks for such other and further relief, whether legal or equitable, to which Plaintiff may be justly entitled.

Respectfully Submitted,

/s/ Robert J. Heil

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Attorney for Plaintiff Theresa Hoelscher

Filed
3/9/2018 6:39 PM
Anne Lorentzen
District Clerk
Nueces County, Texas

CIVIL CASE INFORMATION SHEET

2018CCV-60482-1

CAUSE NUMBER:

COURT:

STYLED

Theresa Hoelscher v. Abiomed

(e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing.

Name: <u>Robert Heil</u> Email: <u>robert.jheil@hotmail.com</u> Address: <u>5262 S. Staples #300</u> Telephone: <u>(361) 658-7548</u> City/State/Zip: <u>Corpus Christi, TX 78411</u> Fax: <u>(361) 940-3734</u> Signature: <u>[Signature]</u> State Bar No: <u>24032286</u>		Plaintiff(s)/Petitioner(s): <u>Theresa Hoelscher</u> Defendant(s)/Respondent(s): <u>Abiomed</u> <u>222 Cherry Hill</u> <u>Danvers, MA 01923</u> <u>(978) 777-8411</u> (Attach additional page as necessary to list all parties)		<input type="checkbox"/> Attorney for Plaintiff/Petitioner <input type="checkbox"/> Pro Se Plaintiff/Petitioner <input type="checkbox"/> Title IV-D Agency <input type="checkbox"/> Other:		
Debt/Contract: <input type="checkbox"/> Consumer/DTPA <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Other Debt/Contract: Foreclosure: <input type="checkbox"/> Home Equity—Expedited <input type="checkbox"/> Other Foreclosure <input type="checkbox"/> Franchise <input type="checkbox"/> Insurance <input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Non-Competition <input type="checkbox"/> Partnership <input type="checkbox"/> Other Contract:		<input type="checkbox"/> Assault/Battery <input type="checkbox"/> Construction <input type="checkbox"/> Defamation <input type="checkbox"/> Malpractice <input type="checkbox"/> Accounting <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional Liability: <input type="checkbox"/> Motor Vehicle Accident <input type="checkbox"/> Premises <input type="checkbox"/> Product Liability <input type="checkbox"/> Asbestos/Silica <input type="checkbox"/> Other Product Liability List Product: <input type="checkbox"/> Other Injury or Damage:		<input type="checkbox"/> Eminent Domain/Condemnation <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Trespass to Try Title <input type="checkbox"/> Other Property:	<input type="checkbox"/> Annulment <input type="checkbox"/> Declare Marriage Void <input type="checkbox"/> Divorce <input type="checkbox"/> With Children <input type="checkbox"/> No Children	<input type="checkbox"/> Enforcement <input type="checkbox"/> Modification—Custody <input type="checkbox"/> Modification—Other <input type="checkbox"/> Enforcement/Modification <input type="checkbox"/> Paternity <input type="checkbox"/> Reciprocity (UIFSA) <input type="checkbox"/> Support Order
<input checked="" type="checkbox"/> Discrimination <input type="checkbox"/> Retaliation <input type="checkbox"/> Termination <input type="checkbox"/> Workers' Compensation <input type="checkbox"/> Other Employment: <u>illegal conduct</u> <u>discriminatory practice</u>		<input type="checkbox"/> Administrative Appeal <input type="checkbox"/> Antitrust/Unfair Competition <input type="checkbox"/> Code Violations <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Intellectual Property		<input type="checkbox"/> Lawyer Discipline <input type="checkbox"/> Perpetrate Testimony <input type="checkbox"/> Securities/Stock <input type="checkbox"/> Tortious Interference <input type="checkbox"/> Other:		<input type="checkbox"/> Enforce Foreign Judgment <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Name Change <input type="checkbox"/> Protective Order <input type="checkbox"/> Removal of Disabilities of Minority <input type="checkbox"/> Other:
<input type="checkbox"/> Tax Appraisal <input type="checkbox"/> Tax Delinquency <input type="checkbox"/> Other Tax		Probate & Mental Health <input type="checkbox"/> Guardianship—Adult <input type="checkbox"/> Guardianship—Minor <input type="checkbox"/> Mental Health <input type="checkbox"/> Other:				
<input type="checkbox"/> Appeal from Municipal or Justice Court <input type="checkbox"/> Arbitration-related <input type="checkbox"/> Attachment <input type="checkbox"/> Bill of Review <input type="checkbox"/> Certiorari <input type="checkbox"/> Class Action		<input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Interpleader <input type="checkbox"/> License <input type="checkbox"/> Mandamus <input type="checkbox"/> Post-judgment		<input type="checkbox"/> Prejudgment Remedy <input type="checkbox"/> Protective Order <input type="checkbox"/> Receiver <input type="checkbox"/> Sequestration <input type="checkbox"/> Temporary Restraining Order/Injunction <input type="checkbox"/> Turnover		
<input type="checkbox"/> Less than \$100,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees <input type="checkbox"/> Less than \$100,000 and non-monetary relief <input type="checkbox"/> Over \$100,000 but not more than \$200,000 <input type="checkbox"/> Over \$200,000 but not more than \$1,000,000 <input checked="" type="checkbox"/> Over \$1,000,000						

over \$1,000,000.00

CITATION

ABIOMED
C/O CSC
84 STATE STREET
BOSTON, MA